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PATENT

ATTORNEY DOCKET NO. 041514-5143

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No. 1762
)	
Masakazu OGASAWARA et al.)	Group Art Unit: 2655
)	
Application No.: 09/944,098)	Examiner: G. Patel
)	
Filed: September 4, 2001)	
)	
For: OPTICAL PICKUP DEVICE WITH)	
FOCUS ERROR DETECTING)	
OPTICAL ELEMENT AND)	
METHOD FOR FOCUS ERROR)	
DETECTION (As Amended))	

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ELECTION TRANSMITTAL FORM

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

1. Transmitted herewith is a Response to the requirement for election of species as provided in the Office Action dated **July 20, 2004 (Paper No. 8)**.

2. Additional papers enclosed:

- ☐ Drawings: ☐ Formal ☐ Informal
- ☐ Information Disclosure Statement
- ☐ Form PTO-1449, _____ references included
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☐ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time.

☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input checked="" type="checkbox"/> two months	\$ 430.00	\$ 215.00
<input type="checkbox"/> three months	\$ 980.00	\$ 490.00
<input type="checkbox"/> four months	\$ 1,530.00	\$ 765.00

Extension of time fee due with this request: **\$430.00**.

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for _____ months has already been secured and the fee paid therefor of \$_____ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	20	minus	20	0	x \$18 each =	+ \$0.00
Independent Claims (37 C.F.R. §1.16(b))	2	minus	3	0	x \$88 each =	+ \$0.00
[] First presentation of Multiple dependent claim(s)					\$280.00	+ \$0.00
SUB-TOTAL =						\$0.00
Reduction by ½ for filing by a small entity						- \$0.00
TOTAL FEE =						\$0.00


6. Fee Payment

- ☐ No fee is to be paid at this time.
- ☒ The Commissioner is hereby authorized to charge Deposit Account No. 50-0310 in the amount of **\$430.00** for the **two (2)** month extension of time fee.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: October 20, 2004

By: 
David J. Baltazar (Reg. No. 53,964)

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Sir:

RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES

In response to the Requirement for Election of Species mailed July 20, 2004 (Paper No. 8), Applicants respectfully elect, with traverse, the species typified by figs. 6-8 as the elected species for examination in the subject application. Applicants election includes the photodetector as provided in figs. 6-8. Claims 21-23 and 29-37 are readable upon the elected species. Furthermore, Applicants submit that claim 21 is generic.

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